

To: Manville, Jennifer[manville.jennifer@epa.gov]
Cc: Dee.allen@ldftribe.com[Dee.allen@ldftribe.com]
From: Hanson, Kristen
Sent: Fri 10/28/2016 2:33:21 PM
Subject: RE: Status of MOA

Hi Jenny,

We had tried to work through the technical Bristol Report. Bob would only talk about the report in general concepts. He was disappointed in the report because it didn't have a detailed cost and the report didn't choose an option. Bob long list of complaints about the Task Order were all limitations he had written into the task order. Confusing..

The rest of the group was concerned about getting the appropriate data into the report so the report would be represent accurate conditions. All agreed to do this.

Bob then talked about scenarios and focused on going forward with a sve system option. All though the report needed all the data for an accurate extent of soil with mass calculation to target the heaviest contaminated soil. The report shows two differing extent of soil contamination and the text talks about depths not consistent with the data. The model extent of soil included soil extending beneath highway 70, the Bristol figure shows a much different area.

Bob then scenarios- "what if the state goes ahead with a sve system on their own, they may do that"

Dee asked if this has already been decided. All said no and Bob said he hasn't discussed this with the state.

We explain some problems 1) The data needed to evaluate the options is not included 2) The Remedial Option has not been chosen 3) REI failed once and is not equipped to design a system 4) The past remedial system exacerbated the contamination- this was seen in the lif work, contaminated source soils are submerged below water due to poor system design, therefore mobilizing a significant contaminant mass into groundwater. 5) REI has misrepresented data resulting in regulatory decisions 6) the tribe would need to see an example of a successful similar system by the design company 7) The Tribe would need money and resources for very stringent oversight.

Also discussed was our approval process. The proposed system would go through TNR and committee review, requiring council approval.

Dee wanted to go through comments with the EPA contractor (not on the call)- as was done for all other projects the Tribe has worked on. The Task Order includes contractor/tribe calls prior to report finalization (several hours per tech memo- this TO has 2 tech memos). I did send a follow-up request to Sherry for review of the tech memo with the EPA contractor.

Tom Kady agreed that an evaluation with all data needed to be completed first. When Bob forced the what if scenario of the state going forward- Tom explains how this is a very poor idea

- 1) Any system design would need the missing data/calc to target remediation
- 2) Suitability/ Unintended consequences would need to be evaluated
- 3) A pilot test to evaluate suitability/ area of influence (iron concern)
- 4) It would not make sense to run this type of system in the winter because of air moisture problems
- 5) This technology is ineffective for lead cadmium lead scavengers (metals) Contaminants of concern that are present at the site- Tom sends this reminder in an email after the call and includes any SVE work makes this assumption- no effect on lead

Bob Pushed more on this idea and toms response was

- 1) Dig all you want now
- 2) System needs to be designed properly- slapping an ineffective system without pilot test is a poor idea

Bob pushed more and Tom laid out a schedule as an alternative to plopping in an system this fall;

- 1) Finish data eval
- 2) If data supports, then a pilot this fall

3) Design this winter

4) Install in spring

This was a forced scenario IF the state choose to go forward with SVE and IF SVE is the chosen remedial action and an alternative to slapping something in the ground this fall.

I talked about a April 2015 agreed process- Interim Action is allowed while the site investigation is occurring. This appears to be a Remedial Alternative, which is something different -post complete evaluated site investigation. Note(still not a complete well network, only two wells are screened appropriately at the site).

After a whole lot of if then scenario and Dee reiterating council approval of every step of the process and the open ongoing consultation process.

Tom Kady asked about authority. EPA silent. Tribe explained EPA has authority under RCRA and the Tribe has authority. The State does not have authority.

Eventually – the last 8 minutes of the call we got to go through technical comments of the tech memo. All agreed that additional calcs and data inclusion was needed to be included and reflected in the recommendations and figures. There is a problem with a new interpretation – contamination drawn to dump by a drinking water well- included in TO document that is referenced in the report. Bob claims to not know the source of the statement. The Tribe discusses this is a new development and if true alters the agreed conceptual site model presented in the May meeting. If this is true, the source needs to be verified and this information included into our conceptual understanding. Bob say that he will ask the contractor.

We talked about chemical injection- Bob suggested ORC and Tom Kady dismissed this. Other Chemical Injection is discussed. The problems with chemical injection in close proximity to our wild rice lake and the sensitive geochemical condition was discussed.

What is most troublesome is the call the following day with

EPA (Bob) , State (Chris Saari), State Contractor (REI) , and Kristen Hanson. In this call Bob advocated for a SVE system this fall. He talks about not knowing a lot about these systems and asks REI for advice and advisement. Bob states “He doesn’t know what a AS/SVE system looks like” and explains that Chris and Dave know much more than him. When the State asks what if there is a preference to a) get a well network in this fall or 2) get a SVE system. Bob states over and over “we” want to see a system. The Tribe refers back to our Site Investigation and Remediation Process. Wells are needed for a complete site investigation.

Bob presents that Tom Kady suggests a SVE pilot this fall and design over the winter. Bob continues to talk like REI will be doing this work. Bob then says that Kristen has issues with council and “they will have to have a chance to buy into what “We” are going to do.

The outcome of the call is that The State will suggest monitoring well location and depth for EPA , Tribe and Contractor to consider. Surely EPA can do better than review the State guys well location suggestions.... Subsequent emails suggest that REI is going forward with SVE planning..

Whats Next

- 1) I requested Tribal participation in EPA contractor call before report finalization
- 2) I will send an email to Sherry requesting a call on schedule and tasks

Kristen Hanson

Environmental Specialist

Tribal Natural Resource Department

Lac du Flambeau Band of Lake Superior Chippewa Indians

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From: Manville, Jennifer [mailto:manville.jennifer@epa.gov]
Sent: Thursday, October 27, 2016 7:41 AM
To: Hanson, Kristen
Subject: RE: Status of MOA

Argh. Did the call go well?

From: Hanson, Kristen [<mailto:KHanson@ldftribe.com>]
Sent: Thursday, October 27, 2016 8:39 AM
To: Manville, Jennifer <manville.jennifer@epa.gov>
Subject: RE: Status of MOA

Good Morning Jenny!!

I hope your travels went well.

There was a EPA Call yesterday at 10am with K.Hanson, D.Allen, S. Kamke, B.Egan and T. Kady. Today, at 8 central is a State-Tribe-EPA technical communication call. The State has set the following agenda for this call:

My calendar says that we have a call coming up at 8 AM on Thursday morning. Here are some proposed agenda items; please share suggestions for other items with the group:

- *Brief discussion on review/comment process for call notes*
- *Update on status of RAOR from Bristol*
- *Clarification of available data/results/submittals – who has what, and what can we do better in terms of sharing information?*
- *Prioritization of time remaining in 2016 – complete MW network installation vs. remedial action planning/implementation vs. other?*
- *Need to update project schedule?*

- *Other items?*

Talk to you on Thursday. Thanks!

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Chris Saari

Hydrogeologist – Remediation and Redevelopment Program

Wisconsin Department of Natural Resources

Phone: (715) 685-2920

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Christopher.Saari@Wi.gov

I am forwarding the call in number separately.

Your participation is appreciated, if you can make it!

For the call yesterday, the agenda was

- 1) Bristol Report
- 2) Schedule

We were supposed to go through the Bristol Report and work on the EPA/Tribe aspects of the schedule (WDNR has provided their schedule). Bob spoke about the report generally and a lot of "what if planning". He also discussed what he thought was the shortcomings of this report (This was very confusing, because Bobs complaints were limitations he established in his task

order) We all agreed all of the data needed to be incorporated into the model and report. Mass Volume calculations was suggested by Tom Kady (he has been reiterating the mass volume calcs on every call/interaction). At the end of the call- I was able to briefly read through Tribal comments/edits.

We had felt that the report needed accurate area and data to base recommendations (all agreed). Bob spent a lot of time discussing a scenario where the State may go forward on their own and put in a SVE system designed by REI. He was asking what the response would be.

Kristen

-----Original Message-----

From: Manville, Jennifer [<mailto:manville.jennifer@epa.gov>]

Sent: Thursday, October 27, 2016 6:41 AM

To: Hanson, Kristen

Subject: RE: Status of MOA

Thanks Kristen. So is there a call this morning with R5 staff? Have been on travel to the R5TOC meeting, and I don't recall seeing any call-in information.

-----Original Message-----

From: Hanson, Kristen [<mailto:KHanson@ldftribe.com>]

Sent: Tuesday, October 25, 2016 2:56 PM

To: Manville, Jennifer <manville.jennifer@epa.gov>

Subject: FW: Status of MOA

MOA update- It has made it through Erik Olson

From: Richard Du Bey [<mailto:RDuBey@scblaw.com>]

Sent: Tuesday, October 25, 2016 11:43 AM

To: Olson, Erik

Subject: RE: Status of MOA

Dear Erik,

Thanks for your prompt response, I look forward to receiving your revised draft MOA and moving this project forward.

Richard

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[SCB_anniversary-logo_email-signature]

This email may contain confidential information, work product, or attorney-client privileged communications. If you are not the intended recipient, please delete this email and notify the sender.

From: Olson, Erik [<mailto:olson.erik@epa.gov>]

Sent: Tuesday, October 25, 2016 6:30 AM

To: Richard Du Bey <RDuBey@scblaw.com<<mailto:RDuBey@scblaw.com>>>

Subject: Re: Status of MOA

Richard,

I have made my recommendations to my client and am waiting to hear back. I expect to see the branch chief in meetings today and tomorrow and will see if he has heard from his boss.

I'm messaging Bob for a copy of the EPA access agreement.

I'm on travel until Thursday and email access has been sketchy, but will get you a response no later than Thursday.

- Erik

From: Richard Du Bey <RDuBey@scblaw.com<<mailto:RDuBey@scblaw.com>>>

Sent: Monday, October 24, 2016 1:16 PM

To: Olson, Erik

Subject: Status of MOA

Confidential Communication

Dear Erik,

Please let me know the status of the revised MOA. In addition, please provide me with a copy of the signed final access agreement between EPA and the Kozaks regarding the Tower Standard/Haskell Lake UST Site.

Thanks,

Richard

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Attorney Athan Tramountanas to Present at Joint Construction CLE, November 4, 2016. October 13, 2016 by SCBLaw Staff. The Construction Law Sections of the Washington ...